

CHAPTER LI.

 *An act for the regulation of the practice of medicine and surgery in the State of California, and for the appointment of a board of medical examiners in the matter of said regulation.*

[Became a law under constitutional provision without Governor's approval, **February 27, 1901.**]

The people of the State of California, represented in senate and assembly, do enact as follows:

Practice of
medicine
and
surgery.

Board of
medical
examiners.

SECTION 1. *Appointment of Board, Quorum.* There shall be a board consisting of nine members, which shall be known as the board of medical examiners of the State of California. The members of said board shall be elected as follows: Five members thereof shall be elected by the Medical Society of the State of California, two members thereof by the California State Homœopathic Medical Society, and two members thereof by the Eclectic Medical Society of the State of California. Said members shall be elected annually by said societies, respectively, according to such rules as each society may adopt for the election of the members to be elected by it, and the members so elected shall serve for one year, and until

their successors shall have been elected and qualified. Each of said societies respectively may also elect alternates who shall fill such vacancies as may occur in its representation on the board. It shall require the affirmative vote of six members of said board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate to practice medicine and surgery as in this act provided.

SEC. 2. *Oath.* Each member of said board shall, before ~~oath.~~ entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine, and a legally qualified practitioner of medicine in this state.

SEC. 3. *Organization, Meetings.* Said board shall organize by electing from its number a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of the board. Said board shall hold its regular meetings in the city of San Francisco, on the first Tuesdays of April, August, and December of each year, for the consideration of applications for certificates, and for the transaction of such other business as may properly come before it, with power of adjournment from time to time until its business is concluded; *provided, however,* that examinations of applicants for certificates may, in the discretion of the board, be conducted in any part of the state designated by said board of examiners, under the supervision of any one member of said board, upon written questions previously prepared by said board; and when the examination is concluded the questions submitted, together with the answers and any other evidence or affidavits used or produced at said examination, shall be signed by said examiner and immediately returned to the board of examiners, who shall act upon said application for a certificate in the same manner as if the person had appeared personally before said board. Notice of each regular meeting of the board shall be given by publication twice a week, for each of the two weeks next preceding each meeting, in two daily papers published in the city of San Francisco, in one daily paper published in the city of Sacramento, and in one daily paper published in the city of Los Angeles. Special meetings of the board may be held at the call of the president, at such time and place as he shall direct, and the same notice thereof shall be given as in the case of regular meetings. Said board shall procure a seal, and shall receive through its secretary applications for the certificates provided to be issued under this act.

SEC. 4. *Rules.* Said board may from time to time adopt ~~Rules.~~ such rules as may be necessary to enable it to carry into effect the provisions of this act. Any member of said board may administer oaths in all matters pertaining to the duties of said board, and the board shall have the authority to take evidence as to any matter cognizable by it.

SEC. 5. *Requirements, Examination, Fee.* Every person before practicing medicine or surgery, or any of the departments

Organization-
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Meetings.

Examina-
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applicants.

Publica-
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notice of
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Rules.

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of medicine or surgery in this state, must have the certificate herein provided for. In order to procure such certificate he must produce satisfactory testimonials of good moral character, and a diploma issued by some legally chartered medical school, the requirements of which medical school shall have been at the time of granting such diploma, in no particular less than those prescribed by the Association of American Medical Colleges for that year; or he must produce satisfactory evidence of having possessed such diploma, or a license from some legally constituted institution which grants medical and surgical licenses only upon actual examination, or satisfactory evidence of having possessed such license; and he must accompany said diploma or license with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, and that the diploma or license was procured in the regular course, either of instruction or examination, without fraud or misrepresentation of any kind. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, said board may hear such further evidence as, in its discretion, it may deem proper as to any of the matters embraced in said affidavit. If it should appear from such evidence that said affidavit is untrue in any particular, or if it should appear that the applicant is not of good moral character, the application must be rejected.

Diplomas and licenses.

Examination of applicants.

Subjects.

Questions and methods of examination.

In addition to the requirements above set forth, each applicant for a certificate must be personally examined by said board as to his qualifications to practice medicine and surgery. The examination shall be conducted in the English language, and shall be, in whole or in part, in writing, and shall be on the following subjects, to wit: Anatomy, physiology, bacteriology, pathology, chemistry and toxicology, surgery, obstetrics, **materia medica and therapeutics, and theory and practice of medicine.** When the applicant applies for examination in **materia medica and therapeutics, and theory and practice of medicine**, he shall designate in what school of medicine he desires to practice, and only the member or members of the board who belong to the school so designated shall participate in this part of the examination. Examinations shall be practical in character, and designed to discover the applicant's fitness to practice medicine and surgery.

Examinations in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of one to ten. If an applicant fail in his first examination he may, after not less than six months, be re-examined. If he fail in a second examination he shall not thereafter be entitled to another examination in less than one year after date of second examination, and shall be required to pay for such examinations the full fee. The examination papers shall form a part of the records of said board, and shall be kept on file by the secretary. In said examination the applicant shall be known and designated by number only, and the name attached

to the number shall be kept secret by the secretary until after the board has finally voted upon the application. The secretary of the board of medical examiners shall in no instance participate, as an examiner, in any examinations held by the board; nor shall he be entitled to vote upon the question of granting any certificate to practice medicine and surgery.

Said board may, in its discretion, accept and register, upon payment of the registration fee, and without examination of the applicant, any certificate which shall have been issued to him by the medical examining board of the District of Columbia, or of any state or territory of the United States; *provided, however,* that the legal requirements of such medical examining board shall have been, at the time of issuing such certificate, in no degree or particular less than those of California at the time when such certificate shall be presented for registration to the board created by this act; *and provided further,* that the provisions in this paragraph contained shall be held to apply only to such of said medical examining boards as accept and register the certificates granted by this board without examination by them of the ones holding such certificates. *Each applicant, on fee.* making application, shall pay to the secretary of the board a fee of twenty (20) dollars, which shall be paid to the treasurer of said board by said secretary.

SEC. 6. *Certificate.* When any applicant has shown himself to be possessed of the qualifications herein required, and has successfully passed the said examination, a certificate must be issued to him by said board, authorizing him to practice medicine and surgery in this state. Said certificate shall be signed by the president and secretary of said board, and sealed with the seal of the board.

SEC. 7. *Record of Proceedings.* Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set out therein.

SEC. 8. *Registration.* Every person holding a certificate authorizing him to practice medicine or surgery, or both, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be endorsed on the certificate by the county clerk recording the same. Every such person, on each change of residence, must have his certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be *prima facie* evidence of the want of possession of such certificate. And any person holding a certificate who shall practice medicine or surgery, or attempt to practice medicine or surgery, without first having filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than

Registration of applicants upon certificate.

Record.

Certificates to be recorded by county clerk.

PAGES

60 + 61

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with such unprofessional conduct. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery in this state.

Unprofessional conduct defined.

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First—The procuring or aiding or abetting in procuring a criminal abortion.

Second—The obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured.

Third—The willfully betraying a professional secret.

Fourth—All advertising of medical business in which grossly improbable statements are made.

Fifth—All advertising of any medicines, or of any means, whereby the monthly periods of women can be regulated, or the menses re-established if suppressed.

Sixth—Conviction of any offense involving moral turpitude.

Seventh—Habitual intemperance.

Salaries, expenses, etc.

SEC. 11. *Expenditures of the Board.* Said board shall have the power to employ legal counsel and clerical assistance, and to fix the salaries of the same, and to incur such other expenses as may be deemed necessary to carry into effect the provisions of this act. It shall also fix the salary of the secretary, not to exceed the sum of twenty-four hundred dollars per annum, and the sum to be paid to other members of said board, not to exceed ten dollars per diem each, for each and every day of actual service in the discharge of official duties; and said board may, in its discretion, add to said sums necessary traveling expenses. All money in-excess of the actual expenses of the board shall be paid annually into the treasuries of the respective state medical societies, and shall be prorated according to the number of representatives of each school among the applicants examined.

Illegal practice.

SEC. 12. *Illegal Practice.* Any person practicing medicine or surgery in this state, without having, at the time of so practicing, a valid, unrevoked certificate, as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than sixty days, nor more than one hundred and eighty days, or by both such fine and imprisonment. In each such conviction one half of the fine shall be paid, when collected, to the prosecuting witness, or witnesses, and the other half shall be paid into the school fund of the county, or city and county, in which such conviction is had.

Penalty for false registration.

SEC. 13. *Unauthorized Registration.* Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False representation.

SEC. 14. *False Representation.* Any person assuming to

act as a member of a state board of medical examiners, or who shall sign, or subscribe, or issue or cause to be issued, or seal or cause to be sealed, a certificate authorizing any person to practice medicine or surgery in this state, except the person so acting and doing shall have been elected a member of said board of medical examiners as in this act provided, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than sixty nor more than one hundred and eighty days, or by both such fine and imprisonment.

SEC. 15. *Previous Registration.* Any person who holds a Previous registration. certificate from one of the boards of examiners heretofore existing under the provisions of "An act to regulate the practice of medicine in the State of California," approved April third, eighteen hundred and seventy-six, or an act supplemental and amendatory to said act, which became a law April first, eighteen hundred and seventy-eight, shall be entitled to practice medicine and surgery in this state, the same as if it had been issued under this act; but all such certificates may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if they had been issued under this act.

SEC. 16. *Definition.* The following persons shall be deemed as practicing medicine or surgery within the meaning of this act:

1. Those who profess to be, or hold themselves out as being, engaged as doctors, physicians or surgeons in the treatment of disease, injury, or deformity of human beings.

2. Those who, for pecuniary or valuable consideration, shall prescribe medicine, magnetism, or electricity, in the treatment of disease, injury, or deformity of human beings.

3. Those who, for pecuniary or valuable consideration, shall employ surgical or medical means or appliances for the treatment of disease, injury, or deformity of human beings, except dealers in surgical, dental and optical appliances.

4. Those who, for a pecuniary or valuable consideration, prescribe or use any drug or medicine, appliance, or medical or surgical treatment, or perform any operation for the relief or cure of any bodily injury or disease.

The doing of any of the acts in this section mentioned shall be taken to be *prima facie* evidence of an intent on the part of the person doing any of said acts to represent himself as engaged in the practice of medicine or surgery, or both; but nothing in this act shall be so construed as to inhibit service in the case of emergency, or the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy, or marine hospital service, in the discharge of his professional duties, nor to any legally qualified dentist when engaged exclusively in the practice of dentistry, nor to any physician or surgeon from another state or territory, when in actual consultation with a legal practitioner of this state, if such physician or surgeon is, at the time of such consultation, a legal practitioner of medicine.

Practitioners of medicine and surgery defined.

Exceptions to provisions of this act.

PAGES

64 to END

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